

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Dustin Johnson on 9/29/2008.

The application has been amended as follows:

In claim 47, line 3, insert the phrase --between an upper surface and a lower surface-- after the word "dimension" and before the phrase "to distract".

In claim 47, line 4, insert the phrase --and having a side between the upper surface and lower surface facing a forward direction-- after the phrase "to receive an implant" and before the semicolon ";".

In claim 47, line 8, delete "cutting edge" and replace with --beveled cutting edge facing the forward direction and--.

In claim 49, line 3, insert the phrase --between an upper surface and a lower surface-- after the word "dimension" and before the phrase "to distract".

In claim 49, line 4, insert the phrase --and having a side between the upper surface and lower surface facing a forward direction-- after the phrase "to receive an implant" and before the semicolon ";".

Art Unit: 3733

In claim 49, line 7, delete “cutting edge” and replace with --beveled cutting edge facing the forward direction and--.

In claim 50, line 3, insert the phrase --between an upper surface and a lower surface-- after the word “dimension” and before the phrase “to distract”.

In claim 50, line 4, insert the phrase --and having a side between the upper surface and lower surface facing a forward direction-- after the phrase “to receive an implant” and before the semicolon “;”.

In claim 50, line 7, delete “cutting edge” and replace with --beveled cutting edge facing the forward direction and--.

The following is an examiner’s statement of reasons for allowance:

For claim 1 and dependants thereof, the claims in the instant application have not been rejected using prior art because no references, or reasonable combination thereof, could be found which disclose, or suggest a cutter with a forked end having a first tine and a second tine, the first and the second tines both having an upper surface and a lower surface, and both having an inner side and an outer side, wherein the inner side extends between the upper surface and the lower surface, and the outer side extends between the upper surface and the lower surface, a first cutting blade extending from the upper surface of the first tine and flush with the inner side of the first tine; a second cutting blade extending from the upper surface of the second tine and flush with the inner side of the second tine and, the first and second cutting blades extending in a first

Art Unit: 3733

direction from the first and the second tines and a third cutting blade extending from the lower surface of the first tine and flush with the outer side of the first tine; and a fourth cutting blade extending from the lower surface of the second tine and flush with the outer side of the second tine and, the third and fourth cutting blades extending in a second direction from the first and the second tines and the third and fourth cutting blades are placed further apart than the first and second cutting blades, wherein the first, second, third, and fourth cutting blades each comprise a leading cutting edge extending substantially parallel to one of the inner and outer sides of the first or second tines in combination with the other claimed features

For claims 47, 49, and 50, these claims have not been rejected using prior art because no references, or reasonable combination thereof, could be found which disclose, or suggest a cutter including a leading beveled cutting edge facing a forward direction in combination with the other claimed features.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARY HOFFMAN whose telephone number is (571)272-5566. The examiner can normally be reached on Monday-Thursday 10:00-5:00pm.

Art Unit: 3733

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo C. Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mary C. Hoffman/
Examiner, Art Unit 3733
/Eduardo C. Robert/
Supervisory Patent Examiner, Art Unit 3733